

REMARKS

In the 27 August 2008 Advisory Action, the examiner refused entry of applicants' 21 July 2008 amendments to the claims of the subject application on the grounds that they change the scope of the claims and raise new issues that would require further consideration and/or search. For reasons set forth below, applicants respectfully disagree and submit that the amendments should properly be entered.

First, except for the phrase "in axial direction" in claim 1, all of the terminology of claims 1-3 and 5 subject to 35 USC §112 rejections was already present in the claims as of the time the examiner conducted his initial search, so further search and/or consideration in connection with such terminology is not required by applicants' amendment. As far as the "in axial direction" terminology of claim 1 is concerned, that phrase was added by applicants' response to the first Office Action, was entered by the examiner, was part of the claim as considered by the examiner and rejected over the art in the second Office Action, and it therefore does not now change the scope of the claim. Consequently, the 35 USC §112 rejections in the second Office Action are new rejections not necessitated by any amendment to the claims, and the amendments should be entered.

Second, even though words such as were added to clarify the claims where noted by the examiner, the amendments merely reiterated of what was already in the claims and did not change the scope of the claims or raise any new issues that would require

further consideration and/or search. They simply do not add to the claims anything that was not already present in the claims prior to amendment.

Independent Claim 1

At line 7 the phrase "the relaxed state of the dosing dispenser" was changed to "a relaxed state of the soft elastic dosing dispenser". This did not change the scope of the claim, since the recitation that the dosing dispenser is of a "soft elastic" material was in the claim prior to amendment and, in fact, has been in the claim since the application was filed.

At line 17 the phrase "the tubular section (11) is cut open in axial direction" was changed to "the tubular section (11) is cut open in an axial direction of the tubular section". This did not change the scope of the claim, since even if the last four words of the phrase as amended were omitted, the phrase would still have the same meaning and be essentially the same as the phrase prior to amendment.

Accordingly, as the amendment to claim 1 did not add anything new to or change the scope of the claim, the amendment should be entered.

Dependent Claim 2

In the last two lines of the claim the phrase "an accommodating chamber (13) remains for one item between the exit opening and the retaining cams (12)" was changed to "an accommodating chamber (13) between the exit opening and the

retaining cams (12) for receiving and accommodating one item". This amendment did not change the scope of the claim, since from a reading of the claim prior to amendment and the specification, it is clear that the accommodating chamber that "remains for one item" is an accommodating chamber for "receiving and accommodating one item". In any event, the phrase, prior to amendment, was in the claim as originally searched by the examiner and its rejection under 35 USC §112 in the second Office Action is a new rejection not necessitated by any amendment of the claim. The amendment should be entered.

Dependent Claim 3

The phrase "the retaining cams (12) are arranged at places located in the longitudinal direction of the exit opening (6)" was changed to "the length of the exit opening (6) extends along a longitudinal direction and the retaining cams (12) are arranged at places located along the longitudinal direction of the exit opening (6)". Since the claim as originally searched by the examiner and prior to amendment recited that the retaining cams "are located along the longitudinal direction of the exit opening", and since a meaning of "longitudinal" when used as an adjective is "running lengthwise", the recitation that the length of the exit opening (6) extends along a longitudinal direction was earlier searched by the examiner and does not now change the scope of the claim.

Claim 5

The phrase "in width direction" was changed to "in a width direction". Clearly the addition of the article "a", as suggested by the examiner, does not change the scope of the claim. In any event the phrase, prior to amendment, was in the claim originally searched by the examiner and its rejection under 35 USC §112 in the second Office Action is a new rejection not necessitated by amendment of the claim. It is proper that the amendment be entered.

Conclusion

As the amendments to the claims were originally searched by the examiner, and as they do not change the scope of the claims, they do not require further consideration and/or search and they should be entered. Quite simply, the amendments are applicants' response to a new rejection that was not necessitated by amendment to the claims.

It is requested that the REMARKS in applicants' 21 July 2008 reply be considered and addressed by the examiner. Applicants believe and submit that their claimed invention patentably distinguishes over the references cited, and request the examiner's favorable consideration of the same.

As the above-discussed amendments should have been entered, and since they were timely presented, no extension fee is required for this request.

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Reply to Advisory Action dated 27 August 2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert A. Lloyd". The signature is fluid and cursive, with the first name "Robert" being more prominent than the last name "Lloyd".

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